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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

IN RE: CATHODE RAY TUBE (CRT)
 ANTITRUST LITIGATION

) Case No. CV-07-5944-SC
) MDL No. 1917
)
)
)

 This document relates to:

All Indirect-Purchaser Actions

**ZELLE HOFMANN'S AND LOVELL
 STEWART'S (1) OPPOSITION TO THE
 CROSS-MOTION TO APPOINT ALIOTO
 LAW FIRM AND MILLER LAW LLC AS
 INTERIM LEAD CLASS COUNSEL, AND
 (2) REPLY TO PLAINTIFF JEFFREY
 FIGONE'S RESPONSE RE:
 APPOINTMENT OF INTERIM LEAD
 COUNSEL FOR INDIRECT PURCHASER
 CLASS**

 ZELLE HOFMANN'S AND LOVELL STEWART'S (1) OPPOSITION TO THE CROSS-MOTION TO APPOINT
 ALIOTO LAW FIRM AND MILLER LAW LLC AS INTERIM LEAD CLASS COUNSEL, AND (2) REPLY TO
 PLAINTIFF JEFFREY FIGONE'S RESPONSE RE: APPOINTMENT OF INTERIM LEAD COUNSEL FOR
 INDIRECT PURCHASER CLASS

) DATE: April 4, 2008
) TIME: 10:00 a.m.
) COURTROOM: 1, 17TH Floor
) Honorable Samuel Conti
)

I. INTRODUCTION

Pursuant to Rule 23(g) of the Federal Rules of Civil Procedure, the law firms of Lovell Stewart Halebian LLP (“Lovell Stewart”) and Zelle, Hofmann, Voelbel, Mason & Gette, LLP (“Zelle Hofmann”) respectfully submit this memorandum (1) in opposition to the Alioto Law Firm’s and Miller Law LLC’s (“Alioto/Miller”) Cross-Motion to Appoint Alioto Law Firm and Miller Law LLC as Interim Lead Class Counsel for Indirect Purchaser Plaintiffs; and (2) in reply to Plaintiff Jeffrey Figone’s Response Re: Motions for Appointment of Interim Lead Counsel for Indirect Purchaser Class, filed on behalf of Trump, Alioto, Trump & Prescott LLP’s (“TATP”).¹

II. ARGUMENT

As presented to the Court in detail in their moving papers, Lovell Stewart’s and Zelle Hofmann’s experience in indirect-purchaser class actions, knowledge of the applicable law, and resources committed to representing the indirect-purchaser plaintiffs (per Rule 23(g)(1)(A)(ii)-

¹ The Alioto/Miller “cross-motion,” filed on March 14, 2008, is untimely. The only complaints on which either of these firms appear were filed on December 13, 2007 and January 17, 2008, by The Furth Firm. *Caldwell v. Chunghwa*, No. 3:07-cv-06303-SC; *Pierce v. Chunghwa*, No. 3:08-cv-00337-SC. The Miller firm is listed as co-counsel on both complaints, and the Alioto firm as co-counsel on the *Pierce* complaint. No explanation has been provided of why the Alioto/Miller motion could not have been filed on or before 35 days before the noticed hearing date of April 4, in accordance with the local rules, as were the other three pending motions. No explanation is provided of why no clients appear to have directly retained either the Alioto or Miller firms, or what if anything either firm did to investigate the claims asserted in this case. Indeed, The Furth Firm itself is not even listed as co-counsel on Alioto/Miller cross-motion.

Messrs. Gordon Ball and Daniel Karon, who also filed a motion seeking appointment as interim lead class counsel on behalf of the indirect-purchaser plaintiffs, have failed to oppose the Zelle/Lovell (or any other) motion.

1 (iv)), put them far ahead of the other firms vying for lead counsel on behalf of the indirect-
2 purchaser class in this action.²

3 Zelle Hofmann and Lovell Stewart do not question that Mr. Joseph Alioto, Mr. Marvin
4 Miller, and Mr. Mario Alioto are all fine antitrust attorneys who could significantly contribute to
5 this case, on an Executive Committee or other capacity. However, their experience and results in
6 class actions such as this one pales in comparison to Zelle/Lovell's extensive leadership
7 experience and track record, as set forth in detail in their moving papers. *See* Zelle/Lovell Motion,
8 filed February 25, 2008.

9 The combined resources of Zelle Hofmann and Lovell Stewart are unmatched by the
10 Alioto/Miller team, TATP, or the other firms that seek a leadership position on behalf of the
11 indirect-purchaser plaintiffs. The Alioto/Miller firms—with a combined total of nine attorneys—
12 gloss over the “resources” requirement, in their moving papers, and cite to nothing more than the
13 number of years of experience they have as attorneys. *See* Alioto/Miller Brief, 14:22-15:5. But
14 their years of experience, which are no greater than the experience of the Zelle/Lovell firms, are
15 worth little if they lack the necessary capital and attorney resources to effectively litigate a case of
16 this magnitude. TATP, with a handful of attorneys in two small local offices—even with Mr.
17 Mario Alioto arguably experienced in his own right—falls short in terms of the necessary
18 resources needed to best handle this case. Additionally, neither Alioto/Miller nor TATP has
19 shown that they are willing and able to put forth the necessary capital requirements to litigate this
20 complex class action, in which expert and document expenses alone can amount to millions of
21 dollars. In contrast, Zelle Hofmann and Lovell Stewart, with over 100 attorneys across the U.S. at
22 their disposal, and with their demonstrated willingness and ability to expend millions of dollars to
23
24

25 ² This follows the assumption that each firm has met its duty to investigate and identify the basis
26 for the claims in their respective complaints, per Rule 23(g)(1)(A)(i). There is nothing to indicate
that Mr. Alioto or Mr. Miller did any pre-filing investigation.

1 fund cases of this magnitude, are in a far superior position to effectively represent this nationwide
2 class of consumers.

3 Finally, the Alioto/Miller cross-motion suggests that it is not in the best interest of the
4 Class to have “a dozen or more” law firms act as “lead” counsel in this case and that “less is more”
5 when it come to managing a case of this magnitude. This argument is curious since the
6 Alioto/Miller motion, like the Zelle/Lovell motion, seeks the appointment of two lead counsel.
7 This “less is more” theme is repeated in Alioto/Miller’s stance that they would conduct this case in
8 a manner “more favorable...in terms of fees and costs than is often found in these cases.”
9 Alioto/Miller Brief at 4. However, litigation of this size and complexity unfortunately cannot be
10 done “on the cheap,” and attempts to streamline the case may prevent the facts of the case from
11 being properly developed, doing more harm than good to the class. The discovery aspect of these
12 complex cases is critical in determining the stance counsel may need to take during settlement
13 negotiations, and of equal if not more importance—building a case strong enough to prove liability
14 at trial.³ Zelle Hofmann and Lovell Stewart are committed to an efficient, streamlined litigation
15 approach, which has a proven track record in indirect-purchaser class actions.

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19 _____
20 ³ The Alioto/Miller cross-motion also criticizes a proposed leadership that includes firms that have
21 worked together before, and who have support from other plaintiffs’ firms. Not only is this
22 argument baseless, since the same prominent plaintiffs’ antitrust firms in this country have often
23 worked together on large cases over the years, but also the fact that a pair of firms vying for lead
has support from other firms is not objectionable. In fact, the Manual endorses the “private
ordering” approach to selecting lead counsel in which the lawyers themselves determine who
should lead and may “agree to designate a particular lead counsel in exchange for commitments to
share the legal work and fess.” See Manual for Complex Litigation Fourth (2004).

24 Alioto/Miller cite *In re SRAM Antitrust Litigation*, MDL No. 1819 (N.D. Cal.) for the proposition
25 that the judge in that case “rejected...a top-heavy” leadership structure. In fact, while Judge
26 Wilken appointed Zelle Hofmann as sole lead, she appointed the other four firms which originally
sought a lead counsel position as members of the steering committee, resulting in a leadership
structure where five firms work together as a leadership team. That structure has worked well.

1 **III. CONCLUSION**

2 For the foregoing reasons, Lovell Stewart and Zelle Hofmann respectfully request that the
3 motions of Alioto/Miller, Ball/Karon, and TATP be denied, and that the Court appoint the Zelle
4 Hofmann and Lovell Stewart firms as Interim Class Counsel for the Indirect-Purchaser Plaintiffs.

5 Dated: March 21, 2008

Respectfully submitted,

6 By /s/ Craig C. Corbitt
7 Craig C. Corbitt

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CERTIFICATE OF SERVICE

**IN RE: CATHODE RAY TUBE (CRT) ANTITRUST LITIGATION
Case No. CV-07-5944-SC
MDL No. 1917**

I, Monica J. Steele, certify and declare under penalty of perjury that I: am a citizen of the United States; am over the age of 18 years; am employed by Zelle, Hofmann, Voelbel, Mason & Gette LLP, 44 Montgomery Street, Suite 3400, San Francisco, CA 94104, whose members are members of the State Bar of California and at least one of whose members is a member of the Bar of each Federal District Court within California; am not a party to or interested in the cause entitled upon the document to which this Certificate of Service accompanies; and that on March 21, 2008, I served a true and correct copy of the following document(s) in the manner indicated below:

- 1. ZELLE HOFMANN'S AND LOVELL STEWART'S (1) OPPOSITION TO THE CROSS-MOTION TO APPOINT ALIOTO LAW FIRM AND MILLER LAW LLC AS INTERIM LEAD CLASS COUNSEL, AND (2) REPLY TO PLAINTIFF JEFFREY FIGONE'S RESPONSE RE: APPOINTMENT OF INTERIM LEAD COUNSEL FOR INDIRECT PURCHASER CLASS**

☒ **By USDC Live System-Document Filing System:** on all interested parties registered for e-filing.

Dated: March 21, 2008

Signed /s/Monica J. Steele
Monica J. Steele
Legal Administrative Assistant/Paralegal
to Craig C. Corbitt

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